

CHAPTER 6. AVIATION SAFETY ACTION PROGRAM

1. PURPOSE. The objective of the Aviation Safety Action Program (ASAP) is to prevent accidents and incidents by encouraging employees of certain certificate holders to voluntarily report safety issues and events. The program further provides for education of appropriate parties and the analysis and correction of safety concerns that are identified in the program. ASAPs are intended to create a nonthreatening environment to encourage the employee to voluntarily report safety issues, even though these issues may involve violations of Title 49 of the United States Code (49 U.S.C.), Subtitle VII, or of Title 14 of the Code of Federal Regulations (14 CFR). ASAP is based on a safety partnership between the Federal Aviation Administration (FAA) and the certificate holder and may include any third party such as an employee labor organization. These programs are intended to generate safety information that may not otherwise be obtainable.

A. Information obtained from these programs will permit ASAP participants to identify actual or potential risks throughout their operations. Once risks are identified, the parties to an ASAP can implement corrective actions to reduce the potential for accidents, incidents, and other safety-related events. To gain the greatest possible positive benefit from ASAP, it may be necessary for certificate holders to develop programs with compatible data collection, analysis, storage, and retrieval systems. The information and data, which are collected and analyzed, can be used as a measure of aviation system safety.

B. An ASAP provides a vehicle whereby employees of participating air carriers and domestic repair station certificate holders can identify and report safety issues to management and to the FAA for resolution. An ASAP can be used without fear that the FAA will use reports accepted under the program to take legal enforcement action, or that companies will use such information to take disciplinary action. These programs are designed to encourage participation from various employee groups, such as flight crewmembers, mechanics, flight attendants, and dispatchers.

NOTE: The FAA reserves its discretion to use ASAP reports for legal enforcement purposes where such reports disclose events that appear

to involve possible criminal activity, substance abuse, controlled substances, alcohol, or intentional falsification.

C. The elements of ASAP are set forth in a Memorandum of Understanding (MOU) between FAA, certificate holder management, and an appropriate third party, such as an employee labor organization or other employee representative.

3. BACKGROUND. The FAA's safety mission requires it to take action to reduce or eliminate the possibility of or recurrence of accidents in air transportation. Over the past several years, the FAA and the air transportation industry have sought innovative means for addressing safety problems and identifying potential safety hazards. To this end, the FAA, in cooperation with industry, established several demonstration ASAPs in an effort to increase the flow of safety information to both the air carrier and FAA, and issued Advisory Circular (AC) 120-66, Aviation Safety Action Program (ASAP), in 1997. Among these programs were the USAir Altitude Awareness Program, the American Airlines Safety Action Partnership, and the Alaska Airlines Altitude Awareness Program. These programs included incentives to encourage employees of air carriers participating in the programs to disclose information which may include possible violations of 14 CFR without fear of punitive enforcement sanctions or company disciplinary action. Events reported under a program that involved an apparent violation of the regulations by the air carriers were handled under the Voluntary Disclosure Reporting Program, provided that the elements of the policy were satisfied. In view of the positive safety results from those programs, the FAA issued a revised AC 120-66 in 2000 (AC 120-66A), which established industry-wide guidelines for participation. The FAA revised AC 120-66 again in 2002 (AC 120-66B), incorporating the lessons learned from over two dozen programs that have been established. This chapter contains revised guidance to facilitate achievement of ASAP's safety goals, as well as to encourage wider participation in the program. ASAP includes incentives to encourage participating employees to disclose safety information that may include possible violations of 14 CFR.

5. KEY TERMS. The following key terms and phrases are defined for the purposes of ASAP to ensure a standard interpretation of the guidance.

A. Administrative Action. Under paragraph 205 of FAA Order 2150.3, Compliance and Enforcement Program, as amended, administrative action is a means for disposing of violations or alleged violations that do not warrant the use of enforcement sanctions. The two types of administrative action are a warning notice and a letter of correction.

B. Air Carrier. A person who undertakes directly by lease, or other arrangement, to engage in air transportation.

C. Certificate Holder. Under ASAP, refers to a person authorized to operate under 14 CFR part 121, or who holds a certificate issued under 14 CFR part 145.

D. Certificate-Holding District Office (CHDO). The Flight Standards District Office (FSDO) or Certificate Management Office (CMO) having overall responsibility for all FAA reporting requirements, technical administration requirements, and regulatory oversight of a certificate holder.

E. Consensus of the Event Review Committee (ERC). Under ASAP, consensus of the ERC means the voluntary agreement of all representatives of the ERC to each decision required by the MOU.

F. Corrective Action. For the purposes of ASAP, corrective action refers to any safety-related action determined necessary by the ERC based upon a review and analysis of the reports submitted under an ASAP. Corrective action may involve joint or individual action by the parties to the ASAP MOU.

G. Covered Under the Program/Qualified for Inclusion/Included in ASAP. For the purposes of ASAP, these terms all have the same meaning. They mean that the enforcement-related incentives and other provisions of the ASAP apply to the employee who submitted the report.

H. Enforcement-Related Incentive. Refers to an assurance that lesser enforcement action will be used to address certain alleged violations of the regulations, to encourage participation by the employees of a certificate holder.

I. Event Review Committee (ERC). A group comprised of a representative from each party to an ASAP MOU. The group reviews and analyzes reports

submitted under an ASAP. The ERC may share and exchange information and identify actual or potential safety problems from the information contained in the reports. The ERC is usually comprised of a management representative from the certificate holder, a representative from the employee labor association (if applicable), and a specifically qualified FAA inspector from the CHDO.

J. Intentional Falsification. For the purposes of ASAP, intentional falsification means a false statement in reference to a material fact made with knowledge of its falsity. It does not include mistakes or inadvertent omissions or errors.

K. Major Domestic Repair Station. Refers to a part 145 certificated repair station located in the United States that is certificated to perform airframe and/or engine maintenance for certificate holders operating under part 121.

L. Memorandum of Understanding (MOU). Refers to the written agreement between two or more parties setting forth the purposes for, and terms of, an ASAP.

M. Party/Parties. Refers to the certificate holder, the FAA, and any other person or entity (e.g., labor union or other industry or government entity) that is a signatory to the MOU.

N. Person. A person refers to an individual, firm, partnership, corporation, company, association, joint-stock association, or government entity. It includes a trustee, receiver, assignee, or similar representative of any of them.

O. Safety-Related Report. Refers to a written account of an event that involves an operational or maintenance issue related to aviation safety reported through an ASAP.

P. Sole-Source Report. For the purposes of ASAP, the ERC shall consider a report to be sole-source when all evidence of the event available to the FAA outside of ASAP is discovered by or otherwise predicated on the ASAP report. It is possible to have more than one sole-source report for the same event.

Q. Sufficient Evidence. Sufficient evidence means evidence gathered by an investigation not caused by, or otherwise predicated on, the individual's safety-related report. There must be sufficient evidence to prove the violation, other than the individual's safety-related report. To be considered sufficient evidence under ASAP, the ERC must determine

through consensus that the evidence (other than the individual's safety-related report) would likely have resulted in the processing of an FAA enforcement action had the individual's safety-related report not been accepted under ASAP. Accepted ASAP reports for which there is sufficient evidence will be closed with administrative action.

R. Voluntary Disclosure Reporting Program. A policy under which regulated entities may voluntarily report apparent violations of the regulations and develop corrective action satisfactory to the FAA to prevent their recurrence. Certificate holders that satisfy the elements of the Voluntary Disclosure Reporting Program receive a letter of correction in lieu of civil penalty action. Voluntary disclosure reporting procedures are outlined in AC 00-58, Voluntary Disclosure Reporting Program.

7. APPLICABILITY. ASAPs are intended for air carriers that operate under part 121. They are also intended for major domestic repair stations certificated under part 145. ASAPs are entered into voluntarily by the FAA, a certificate holder, and if appropriate, other parties.

9. ASAP DEVELOPMENT. Certificate holders may develop programs and submit them to the FAA for review and acceptance in accordance with the guidance provided. Ordinarily, programs are developed for specific employee groups, such as flight crewmembers, flight attendants, mechanics, or dispatchers. The FAA will determine whether a program is accepted. The FAA may suggest, but may not require, that a certificate holder develop an ASAP to resolve an identified safety problem.

A. ASAP Development and Implementation. The development and implementation of an ASAP is a multifaceted task.

(1) The certificate holder, employee group, and the FAA must first develop a relationship that will promote the ASAP concept. The reluctance of one or more parties to commit to the program is detrimental to the process.

(2) The process for report review must be outlined in detail.

(3) Safety data collection, analysis, and retention processes must be developed and agreed upon.

(4) Event investigation tasks must be assigned.

(5) Prior to the implementation of the ASAP, a comprehensive company employee and management education program must be undertaken.

(6) The ASAP process may require cultural changes for all parties involved.

(7) Continuity of ERC representation personnel during the early stages of program implementation will promote the desired partnership relationship between program members.

B. Demonstration Programs. Certificate holders initially must develop a separate demonstration program for each employee group sought to be covered by an ASAP. The objective of a demonstration program is to measure its effectiveness and ensure that it meets the safety objectives of the specific ASAP.

(1) The initial demonstration program, which shall be limited to the period of time needed to achieve the desired goals and benefits articulated in the program, should have a duration of no longer than 18 months.

(2) At the conclusion of the initial demonstration program, all parties will review the program. Demonstration programs that require modification may be extended for an additional time, not to exceed 12 months, to effectively measure any change(s) made to the original program to address a deficiency identified by any of the parties to the MOU.

C. Continuing Programs. After a demonstration program is reviewed and determined to be successful by the parties to the agreement, it may be accepted as a continuing program, subject to review and renewal every 2 years by the FAA.

D. Withdrawal. Regardless of the duration of a program, any party to the ASAP MOU may withdraw from the program at any time.

11. ASAP RESOURCES. An ASAP can result in a significant commitment of both human and fiscal resources by the parties to the program. During the development of a program, it is important that each party is willing to commit the necessary personnel, time, and monetary resources to support the program.

13. ASAP CONCEPTS. The specific provisions of an ASAP are described by an MOU that is primarily developed by the certificate holder, FAA CHDO, and in some cases a third party such as an employee labor union. A sample MOU is provided in AC 120-66. An

automated MOU template is also available through the Flight Standards Service (AFS) Web page at <http://www.faa.gov/avr/afs/afs200/afs230/asap/>. The guidance material contained in this chapter and AC 120-66 provide structure and guidance in preparing a program acceptable for FAA participation. Several workable concepts have emerged from the ASAP demonstration programs. These concepts should be addressed in the MOU, and are explained below:

A. Event Review Committee (ERC). The determination of whether reports qualify for inclusion in the ASAP will be made by a consensus of the ERC.

(1) The ERC is composed of one designated representative and an alternate from each of the following: the FAA, the certificate holder, and any third party (e.g., the employee's union or representative organization).

(2) The ERC will:

- Review and analyze reports submitted under the ASAP
- Determine whether such reports qualify for inclusion
- Identify actual or potential problems from the information contained in the reports
- Propose solutions for those problems

(3) For official meeting purposes, a quorum exists when all designated ERC representatives or their alternates are present. Some reported events may involve matters that are complex or sensitive, or that require the expertise of other FAA or industry persons. The ERC representatives are encouraged to consult with such persons as needed during the ASAP process.

B. Consensus of the ERC. The success of ASAP is built on the ability of the ERC to achieve consensus on each event that is reported. Consensus of the ERC means the voluntary agreement of all representatives of the ERC.

(1) The ERC must reach a consensus when deciding whether a report is accepted into the program and when deciding on corrective action recommendations arising from the event, including any FAA administrative action. It does not require that all members believe that a particular decision or recommendation is the most desirable solution, but that the result falls within each member's range of acceptable solutions for that event in the best interest of safety. For this concept to work effectively, the ERC

representative must be empowered to make decisions within the context of the ERC discussions on a given report. Senior management and supervisors should not preempt their respective ERC representative's decision-making discretion for an event reported under ASAP. If the parties to an ASAP MOU do not permit their respective ERC representatives to exercise this discretion, the capacity of the ERC to achieve consensus will be undermined, and the program will ultimately fail.

(2) Recognizing that the FAA holds statutory authority to enforce the necessary rules and regulations, it is understood that the FAA retains all legal rights and responsibilities contained in 49 U.S.C. and Order 2150.3. If consensus of the ERC is not reached on decisions concerning a report involving an apparent violation(s), a qualification issue, or medical certification, the FAA ERC representative will decide how the report should be handled. The FAA will not use the content of an ASAP report in any subsequent enforcement action except as described in paragraph 17B(1).

(3) When the ERC becomes aware of an issue involving the medical qualification or medical certification of an airman, the ERC must immediately advise the appropriate regional flight surgeon about the issue. The ERC will work with the regional flight surgeon and the certificate holder's medical department or medical consultants to resolve any medical certification or medical qualification issues or concerns revealed in an ASAP report, or through the processing of that report. The FAA ERC member must follow the direction(s) of the regional flight surgeon with respect to any medical certification or qualification issue(s) revealed in an ASAP report.

NOTE: The program may be terminated at any time by any party.

C. Sole-Source Reporting. Often, the only information available concerning a safety event will be the individual's ASAP report. Under ASAP this is referred to as a "sole-source" report. Therefore, an ASAP report is considered sole-source when all evidence of the event is discovered by or otherwise predicated on the report.

(1) The ERC will close the report and provide feedback to the reporting employee in a form and manner acceptable to the ERC, if:

(a) The event involves a possible violation of an FAA regulation;

(b) The report is sole-source;

(c) The report meets the criteria for acceptance; and

(d) The individual involved complies with the corrective actions recommended by the ERC.

(2) It is possible to have more than one sole-source report for the same event.

(3) After the investigation is complete and the only source of evidence obtained is from the reporting individual, or is caused by or predicated upon an accepted sole-source report, *no* FAA enforcement action or correspondence outside of the ERC is required.

(4) Accepted sole-source reports should *not* be closed with an FAA letter of no action, a letter of correction, or a warning notice.

D. Sufficient Evidence. Sufficient evidence means evidence gathered by an investigation not caused by, or otherwise predicated on, an individual's safety-related report (see paragraph 5 for the complete definition). Reports that are accepted into the program and supported by sufficient evidence are referred to as non-sole-source reports.

(1) For accepted reports, the inspector should only open an Enforcement Investigative Report (EIR) at such time during the investigation that it is determined that sufficient evidence of an apparent violation exists:

(a) For reports that are accepted under an ASAP, neither administrative action nor punitive legal enforcement action will be taken against an individual for an apparent violation unless there is sufficient evidence of the violation, other than the individual's safety-related report.

(b) For non-sole-source reports that are accepted under ASAP, an FAA warning letter or letter of correction, in addition to an appropriate ERC reply to the reporter, would be used to close an ERC investigation when the evidence provided for the non-sole-source report is sufficient to prove a violation.

(c) For non-sole-source reports that are accepted under ASAP, an FAA letter of no action, in addition to an appropriate ERC reply to the reporter, would be used to close an ERC investigation when there is not sufficient evidence.

(2) Under ASAP, except for reports that appear to involve criminal activity, substance abuse, controlled substances, alcohol, or intentional falsification, the content of any individual's ASAP report will not be used as evidence by FAA for any purpose in an FAA enforcement action.

E. Enforcement-Related Incentive. An enforcement-related incentive is the minimum FAA enforcement action that is needed to achieve the desired goal(s) and results of the program when alleged infractions of 14 CFR are involved.

(1) Apparent violations of the regulations by employees of a certificate holder disclosed through safety-related reports will be addressed with administrative action if:

(a) Sufficient evidence exists; and

(b) The apparent violation(s) is inadvertent and does not involve an intentional disregard for safety.

(2) Violations that are not inadvertent or that involve an intentional disregard for safety are specifically excluded from the program, and any enforcement-related incentive will not apply to these violations.

(3) Reports that appear to involve criminal activity, substance abuse, controlled substances, alcohol, or intentional falsification are automatically excluded from the program and are turned over to the proper authorities for further investigation.

(4) Conduct that raises a question of a lack of airman or medical certification or qualification matters may be addressed by ASAP; however, the employee must successfully complete all of the recommendations in a manner satisfactory to all members of the ERC to be covered by the program, and the ERC must comply with paragraph 13B(3).

(5) Reports initially accepted under an ASAP will be excluded from the program if the employee fails to complete the recommended corrective action in a manner satisfactory to all members of the ERC. Failure of a certificate holder to follow through with corrective action acceptable to all members of the ERC to resolve any safety deficiencies will ordinarily result in termination of the program. In addition, failure of any individual to complete corrective action for an apparent violation, a qualification issue, or medical certification issue in a manner acceptable to all members of the ERC may result in the reopening of

the case and referral of the matter for appropriate action.

15. GUIDELINES FOR ACCEPTANCE AND EXCLUSION OF REPORTS UNDER ASAP.

Participation in ASAP is limited to certificate holder employees and to events occurring while acting in that capacity. Each employee participating in ASAP must individually submit a report to receive the enforcement-related incentives and benefits of the ASAP policy. However, in cases where an event may be reported by more than one person, each individual who seeks coverage under ASAP must either sign the same report or submit separate signed reports.

A. Criteria for Acceptance. The following criteria must be met in order for a report involving a possible violation to be covered under ASAP:

(1) The employee must submit a report in a timely manner. In order to be considered timely, a report must be submitted in accordance with either of the following two criteria:

(a) Within a time period following the event that is defined in the MOU, such as within 24 hours of the end of the duty day in which the event occurred. If the ERC reaches consensus that this criterion has been met, a report would not be rejected for timeliness, even if the FAA was already aware of the possible non-compliance with the regulations, and may have brought it to the attention of the employee;

(b) Within 24 hours of having become aware of possible non-compliance with 14 CFR in accordance with the following criteria:

i. If a report is submitted later than the time period after the occurrence of an event stated in the MOU, the ERC will review all available information to determine whether the employee knew or should have known about the possible non-compliance with 14 CFR within that time period.

ii. If the employee did not know or could not have known about the apparent non-compliance with 14 CFR within that time period, then the report would be included in ASAP, provided the report is submitted within 24 hours of having become aware of possible non-compliance with 14 CFR, and provided all other ASAP acceptance criteria have been met.

iii. If the employee knew or should have known about the apparent non-compliance with 14 CFR, then the report will not be included in ASAP,

unless it is a sole-source report that meets all other ASAP acceptance criteria.

(2) The alleged regulatory violation must be inadvertent, and must not appear to involve an intentional disregard for safety. As stated in Order 2150.3, inadvertent apparent violations are generally the result of simple failure to exercise reasonable care.

(3) The reported event must not appear to involve criminal activity, substance abuse, controlled substances, alcohol, or intentional falsification.

(4) Sole-source reports that meet all of the above acceptance criteria, except timely submission, will be accepted under ASAP.

(5) Reports involving the same or similar possible noncompliance with 14 CFR that were previously addressed with administrative action under ASAP will be accepted into the program, provided they otherwise satisfy the acceptance criteria under paragraph 15A. The ERC will consider on a case-by-case basis the corrective action that is appropriate for such reports.

B. Non-Reporting Employees. Non-reporting employees are employees of the certificate holder that have been identified in an ASAP report as possibly having been involved in an alleged violation and have neither signed that report nor submitted a separate report. For the purposes of ASAP, there are two types of non-reporting employees—those employees of the group covered by an ASAP MOU and those employees that are not covered by an ASAP MOU.

(1) If an ASAP report identifies another covered employee of the certificate holder in a possible violation, and that employee has neither signed that report nor submitted a separate report, the ERC will determine on a case-by-case basis whether that employee knew or reasonably should have known about the possible violation. If the ERC determines that the employee did not know or could not have known about the apparent violation(s), and the original report otherwise qualifies for inclusion under ASAP, the ERC will offer the non-reporting employee the opportunity to submit his/her own ASAP report.

(a) If the non-reporting employee submits his/her own report within 24 hours of notification from the ERC, that report will be afforded the same consideration under ASAP as that accorded the report

from the original reporting employee, provided all other ASAP acceptance criteria are met.

(b) If the non-reporting employee fails to submit his/her own report within 24 hours of notification by the ERC, the possible violation by that employee will be referred to an appropriate office within the FAA for additional investigation, reexamination, and/or enforcement action, as appropriate, and for referral to law enforcement authorities, if warranted.

(2) If an ASAP report identifies another employee of the certificate holder who is not covered under an ASAP MOU, and the report indicates that employee may have been involved in a possible violation, the ERC will determine on a case-by-case basis whether it would be appropriate to offer that employee the opportunity to submit an ASAP report. If the ERC determines that it is appropriate, the ERC will provide that employee with information about ASAP and invite the employee to submit an ASAP report.

(a) If the employee submits an ASAP report within 24 hours of notification by the ERC, that report will be covered under ASAP.

(b) If the employee fails to submit an ASAP report within 24 hours of notification by the ERC, the possible violation by that employee will be referred to an appropriate office within the FAA for additional investigation, reexamination, and/or enforcement action, as appropriate, and for referral to law enforcement agencies, if warranted.

C. Excluding Reports from ASAP. The following types of reports are excluded under an ASAP:

(1) Reports involving an apparent violation that is not inadvertent or that appears to involve an intentional disregard for safety. For example, a pilot misreading an item on a checklist usually would be considered inadvertent. Failure to use the checklist, however, would *not* be considered inadvertent.

(2) Reports that appear to involve possible criminal activity, substance abuse, controlled substances, alcohol, or intentional falsification.

(3) Untimely reports excluded under paragraph 15A(1) or reports for which a consensus on acceptance under paragraph 15 is not reached by the ERC.

(4) Reports of events that occurred when NOT acting as an employee of the certificate holder.

(5) Cases where the employee fails to complete the recommended corrective action in a manner satisfactory to all members of the ERC, even though the report was initially included in an ASAP. In those cases, failure of any individual to complete corrective action for an apparent violation or a qualification or medical certification issue in a manner acceptable to all members of the ERC may result in the reopening of the case and referral of the matter for appropriate action. Failure of a certificate holder to follow through with corrective action acceptable to all members of the ERC to resolve any safety deficiencies will ordinarily result in termination of the program.

17. ENFORCEMENT POLICY. The content of the ASAP report will not be used to initiate or support any company disciplinary action, or as evidence for any purpose in an FAA enforcement action, except as provided in paragraph 17B(1) below. The following enforcement policy shall apply to reports submitted under ASAP:

A. Reports Accepted Under ASAP. Reports that are accepted into ASAP will be addressed using the following enforcement policy:

(1) Those non-sole-source reports included in ASAP with sufficient evidence (see paragraph 5Q) to support a violation of 14 CFR will be closed with administrative action. Those non-sole-source reports without sufficient evidence to support a violation of 14 CFR will be closed with an FAA letter of no action.

(2) Those sole-source reports that are included in ASAP will be closed with no action.

(3) Those reports included in ASAP that demonstrate or raise a question of a lack of qualification will be addressed with appropriate corrective action recommended by the ERC, provided the employee completes the corrective action in a manner satisfactory to all members of the ERC.

B. Reports Excluded from ASAP. Reported events that are excluded from ASAP will be referred to the FAA for possible enforcement action and/or reexamination under 49 U.S.C., Subtitle VII, and as prescribed in FAA Order 2150.3.

(1) Reports of events that appear to involve possible criminal activity, substance abuse, controlled substances, alcohol, or intentional falsification will be referred to an appropriate FAA office for further handling. The FAA may use such reports for any enforcement purposes, and will refer such reports to

law enforcement agencies, if appropriate. If upon completion of subsequent investigation the FAA determines that the event did not involve any of the aforementioned activities, then the report will be referred back to the ERC for a determination of acceptability under ASAP. Such reports will be accepted under ASAP provided they otherwise meet the acceptance criteria in paragraph 15A.

(2) Neither the written ASAP report nor the content of the written ASAP report will be used to initiate or support company discipline or as evidence for any purpose in an FAA enforcement action except as provided for in paragraph 17B(1). The FAA may conduct an independent investigation of an event disclosed in a report.

C. Reopening Reports Based on New Evidence. All safety-related reports should be fully evaluated and, to the extent appropriate, investigated by the FAA. A closed ASAP case, including any related EIR, involving a violation addressed with administrative action or for which no action has been taken, may be reopened and appropriate enforcement action taken if evidence later is discovered that establishes that the violation should have been excluded from the program.

D. Violations of Certificate Holders. Apparent violations of certificate holders disclosed through a safety-related report under an ASAP may be handled under the Voluntary Disclosure Reporting Program, provided the certificate holder voluntarily reports the apparent violations to the FAA and the other elements of that policy are met. (See AC 00-58 and Order 2150.3, Appendix 1: Compliance/Enforcement Bulletin No. 90-6.) The FAA shall use the knowledge of the event to conduct such independent investigation of the operator's apparent violation(s) as is deemed appropriate, including opening an EIR, and shall close such events with administrative action.

E. Enforcement Investigation Coordination. The CHDO is the focal point of all enforcement-related investigations resulting from events reported through the ASAP.

(1) If an event occurs within the jurisdiction of a FSDO other than the CHDO of the certificate holder involved, the FSDO will contact the CHDO of the certificate holder to coordinate appropriate action. The FSDO should delay opening an EIR until establishing contact with the appropriate CHDO. The FSDO should determine whether the certificate holder has an ASAP

for the applicable employee group by accessing the AFS ASAP Web page at <http://www.faa.gov/avr/afs/afs200/afs230/asap/>.

(2) The CHDO, upon learning of an ASAP event that may involve a violation of the regulations, will contact the investigating FSDO which has jurisdiction over the geographical area where the event occurred. If the alleged violator has submitted an ASAP report that has been accepted into the certificate holder's ASAP, that FSDO shall transfer the investigation, including any open EIR, to the CHDO for further investigation and disposition. Other related reports, such as an incident report or preliminary pilot deviation report submitted under FAA Order 8020.11, Aircraft Accident and Incident Notification, Investigation, and Reporting, as amended, normally remain with the FSDO. However, the CHDO may request the transfer of these other reports related to the event. If the CHDO requests the transfer of those related reports, that CHDO is responsible for assuring that they are completed in accordance with existing FAA procedures. If the ASAP report was not accepted into the program, the investigation and EIR remain at the FSDO where the ASAP-reported event occurred, unless the regional headquarters agrees to transfer the case in accordance with paragraph 208(e) of Order 2150.3.

19. MEMORANDUM OF UNDERSTANDING (MOU). The elements of an ASAP are set forth in an MOU between the FAA, certificate holder management, and an appropriate third party, such as an employee labor organization or their representatives. A program will be implemented in accordance with the provisions of its MOU. Each MOU will be based on the parties' different needs and purposes for an ASAP. Required elements of an MOU are identified in the ASAP MOU checklist job aid (see Figure 6-1).

A. Parties to the MOU. For the purpose of this chapter, the term "party/parties" refers to the certificate holder, FAA, and any other person or entity that is a signatory to the MOU and would be a major contributor to the success of the respective ASAP. This could include labor unions or other industry or government entities. It should be noted that FAA only regulates certificate holders and other persons subject to 14 CFR. However, all signatories are expected to conform to the provisions of the MOU.

B. Development Theme. The MOU should be written with the theme of open communication and trust between the parties to the agreement.

C. MOU Elements. Each MOU will be based on the parties' different needs and purposes for an ASAP. The MOU shall set forth the elements of the ASAP.

(1) An automated AFS ASAP MOU template is available for downloading at <http://www.faa.gov/avr/afs/afs200/afs230/asap/>. While use of this template is not required, it is recommended for use by certificate holders in developing their ASAP MOU. Benefits of using this template include expedited review and acceptance processes of the MOU.

(2) Certificate holders may develop their own MOU that does not use the template referenced in the preceding paragraph. In these cases, the checklist provided in Figure 6-1 shall be used by the FAA when the MOU is being reviewed. Certificate holders should use this checklist during development of their MOU. This checklist provides the minimum elements necessary for an ASAP MOU to be accepted by the FAA. The checklist should be completed in its entirety and forwarded with the MOU for processing, if the MOU does not use the automated template referenced above. The CHDO should verify accurate completion of the checklist by the certificate holder.

D. MOU Signatories. The MOU must be signed by an authorized representative of each party. The MOU will be signed by the CHDO office manager on behalf of the FAA following receipt of an authorization from the Director, Flight Standards Service, AFS-1.

21. ASAP PROGRAM ACCEPTANCE, EXTENSION, RENEWAL, AND AMENDMENT PROCEDURES. When a certificate holder submits an MOU, assigned inspectors should review the key terms and concepts in AC 120-66 and this chapter. The checklist job aid (Figure 6-1) should then be completed, if applicable, to ensure that the MOU complies with FAA policy.

A. Initial Review by CHDO. The certificate holder should initially develop and present the program to the CHDO for review.

(1) The CHDO and the certificate holder will review the program to ensure that it satisfies the guidance in AC 120-66 and this chapter. Prior to acceptance, the program should be reviewed to ensure that FAA resources are available to administer the program effectively. Program proposals that require excessive agency resources either should be modified or not accepted.

(2) When the CHDO is satisfied that the program is acceptable under the guidance of ASAP, the CHDO manager forwards an electronic copy of the proposed MOU and the CHDO's recommendation for acceptance to the respective Flight Standards Division regional office and to the headquarters ASAP program office (Voluntary Safety Programs Branch, AFS-230). If the proposed MOU does not employ the AFS ASAP MOU automated template referenced in paragraph 19C(1), a completed ASAP checklist (Figure 6-1) shall accompany the proposed MOU for processing.

(a) The program office shall review and, if required, forward a copy of the MOU to the Office of the Chief Counsel, Enforcement Division, AGC-300, for appropriate legal review. MOUs that use the template do not require AGC review.

(b) All programs, except for renewals of continuing programs, shall receive authorization on final acceptance from AFS-1. AFS-1 will indicate authorization for acceptance of the MOU by FAA memorandum to the CHDO manager through the regional division manager. The ASAP program office will be responsible for preparing the memorandum for AFS-1's signature and submitting it with the ASAP package to AFS-1.

(c) Following authorization by AFS-1, the CHDO manager shall sign the MOU on behalf of the FAA. The certificate holder should allow a minimum of 60 days for the FAA acceptance process to be completed once its ASAP program is received at FAA headquarters for review.

B. Extensions and Continuing Program Initial Acceptance. Extension of a demonstration program and the initial acceptance of a continuing program are processed in the same manner as described in paragraph 21A(2) above.

C. Renewal of a Continuing Program. The renewal of a continuing program is accomplished every 2 years after a review by the parties to the MOU to ensure the particular ASAP program is meeting its objectives. The renewal may be accomplished at the local CHDO level by the CHDO manager signing the MOU on behalf of FAA. The CHDO manager shall notify the ASAP program office (AFS-230) in writing 60 days in advance of renewing a continuing ASAP program.

D. FAA ASAP Policy Updates. As the FAA and industry gain experience with ASAP, one can expect

that FAA ASAP policy will evolve to reflect lessons learned. The AFS Web page <http://www.faa.gov/avr/afs/afs200/afs230/asap/> will provide the most current information on ASAP policy updates. If the FAA makes changes to ASAP policy, those changes will appear on the ASAP Web page prior to publication elsewhere. The Web page also contains an automated template to facilitate the generation of an ASAP MOU by airlines and major domestic repair stations interested in starting new programs. Although not required, use of the automated template is strongly encouraged, because MOUs that use the standard language from that program can be quickly accepted. The template will always reflect the most current FAA policy on ASAP. If the certificate holder and, where applicable, its associated labor association elect to revise an accepted MOU to incorporate updates to FAA ASAP policy, the following acceptance procedures will apply:

(1) The AFS ASAP Web page will serve as the reference source for updates to FAA ASAP policy. Until revised, guidance to industry provided in AC 120-66 will continue to apply, except as noted on the ASAP Web page. The ASAP Web page will contain the exact language that describes policy updates to these documents.

(2) The CHDO manager will accept revisions to accepted ASAP MOUs that are revised to incorporate updates to FAA ASAP policy when such revisions employ the exact policy language that appears in the MOU template on the AFS ASAP Web page. The FAA does not require coordination and review of such revisions above the level of the CHDO manager. However, an information copy of the revised MOU shall be provided to the Manager, AFS-230, P.O. Box 20027, Washington, DC 20041, following acceptance.

(3) Following CHDO review, revisions to accepted ASAP MOUs that do not incorporate the exact policy language that appears in the MOU template on the AFS ASAP Web page must be forwarded for further review through FAA regional headquarters to AFS-230. The CHDO must provide, by cover letter, its recommendations regarding acceptance of such revisions.

E. Revision Control. It is recommended that the certificate holder employ standard revision control methodology with respect to amendments to the MOU. The original and subsequent revisions should include:

(1) For each revision to an original MOU, a change control page identifying the revision number, summarizing each change to the original document, and specifying which pages are to be removed and replaced.

(2) A list of effective pages.

(3) A table of contents.

(4) On each page of the MOU, a calendar date for when that page was prepared or revised.

(5) For all revisions to an original MOU, a revision number on each page that is revised.

(6) Sequential page numbers on all pages of the MOU (except the cover page, if applicable, which shall be understood to constitute page (i)).

F. Recordkeeping. The parties should maintain those records necessary for a program's administration and evaluation. Records submitted to the FAA for review relating to an ASAP are protected to the extent allowed by law under applicable exemptions of the Freedom of Information Act (FOIA). All records and documents relating to an ASAP must be appropriately kept in a manner that ensures compliance with 14 CFR and all applicable laws, including the Pilots Records Improvement Act.

G. ASI Training. ASIs should be adequately prepared to perform ASAP-related duties as outlined below:

(1) ASIs who will review an ASAP MOU for recommended acceptance or will participate in an ERC should attend training as prescribed by the Flight Standards Training Division, AFS-500.

(2) ASIs who will serve as ERC representatives should meet the following minimum qualifications:

(a) Three years of AFS experience (Series 1825).

(b) One year of part 121 certificate management experience.

(c) ASAP initial/continuing training.

(d) Except for new ASAP programs, attendance at three ERC meetings. For a new ASAP program, inspector attendance, if feasible, at another certificate holder's ERC is recommended for training purposes prior to the inspector's participation in the new program.

23. PROGRAM TRACKING AND REPORTING SUBSYSTEM (PTRS) INPUT.

For activity associated with participation in the ASAP review committee, operations and cabin safety inspectors should enter the PTRS code 1391 for each set of such reports reviewed; maintenance inspectors should use PTRS code 3395, and avionics inspectors should use PTRS code 5395 for these reviews. Enter the designator code appropriate to the air carrier or major domestic repair station whose ASAP program was associated with the reports. Use the numeric-miscellaneous field to record the number of reports reviewed. Comments regarding the report content or conduct of the ASAP program may be entered as necessary.

A. If an enforcement investigation associated with an ASAP report is initiated, the inspector shall enter the code ASAP in the National Use block of the PTRS initiated to track aspects of ASAP. This entry is in addition to the PTRS code appropriate for the specific activity (e.g., 1735/33, 3731/33, 5731/33). It is also important to complete the Designator Block with the appropriate air carrier or major domestic repair station designator code, even when completing a PTRS

activity involving an employee of the certificate holder.

B. General comments regarding the report content or conduct of the ASAP program may be entered as necessary.

NOTE: For sole-source reports regarding actions of individual employees, the inspector should not enter the employees' names.

25. QUARTERLY REPORTS ON SAFETY ENHANCEMENTS.

The fundamental purpose of ASAP is to enhance safety. It is therefore important to maintain an audit trail of the extent to which the program is achieving that objective. Office managers shall prepare a summary report of safety enhancements achieved each quarter by each certificate holder's ASAP program(s) for which they have oversight responsibility. Quarterly reports shall be sent by electronic mail to the respective regional headquarters AFS division office and to the Manager, AFS-230, using the report format provided in the example in Figure 6-2.

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FIGURE 6-1. AVIATION SAFETY ACTION PROGRAM (ASAP) CHECKLIST

If the certificate holder chooses not to use the ASAP Memorandum of Understanding (MOU) template (available on the Web at: <http://www.faa.gov/avr/afs/afs200/afs230/asap/>) when developing an MOU, it should use the following checklist to ensure that the MOU adequately addresses all necessary elements. FAA personnel shall use this checklist when reviewing an MOU developed without the aid of the template. An MOU may contain additional information not included in the checklist that is necessary for the operation of the program.

This checklist shall be submitted to the FAA certificate-holding district office (CHDO) along with the completed MOU at the time of submission for FAA acceptance. The CHDO shall review this checklist to ensure that all provisions of the ASAP have been met in accordance with the guidance material and that the certificate holder has accurately completed the checklist. The CHDO shall include the completed checklist along with other applicable items discussed in this chapter for regional and headquarters review. The Response column should be answered for each question. The response should be YES, NO, or NA (not applicable). All NO or NA responses should include a brief explanation as to why that item was marked NO or NA.

The Reference column should also be completed by identifying the location of the particular item's response in the certificate holder's MOU (e.g., MOU, page 2, paragraph 3a).

FIGURE 6-1. (Continued)**ASAP MOU Checklist**

NO.	ITEM	RESPONSE (CIRCLE YES, NO, OR NA)	MOU PARAGRAPH REFERENCE
1	Does this program involve a part 121 Air Carrier or part 145 Major Domestic Repair Station?	Yes No NA	
2	Is this ASAP:		
a	Specific to an employee group(s)?	Yes No NA	
b	A Demonstration program?	Yes No NA	
c	An Extension of a Demonstration program?	Yes No NA	
d	A Continuing program?	Yes No NA	
e	A renewal of a Continuing program?	Yes No NA	
3	Is the duration of the program limited to the period of time needed to achieve the desired goals and benefits articulated in the program? Demonstration programs initially should have a duration of no longer than 18 months and should be reviewed prior to extension. Demonstration programs that undergo changes after their initial review may be extended for no longer than 12 months. Programs that are classified as Continuing must be reviewed and renewed every 2 years.	Yes No NA	
4	Have all parties to the ASAP entered into this agreement voluntarily?	Yes No NA	
5	Is there a description of the objective(s) of the program which includes:		
a	The essential safety information that is reasonably expected to be obtained through the program?	Yes No NA	
b	Any specific safety issues that are of a concern to any of the parties?	Yes No NA	
c	The benefits to be gained through the use of the program?	Yes No NA	

FIGURE 6-1. (Continued)**ASAP MOU Checklist**

NO.	ITEM	RESPONSE (CIRCLE YES, NO, OR NA)	MOU PARAGRAPH REFERENCE
6	Is there a description of any enforcement-related incentive that is needed to achieve the desired goal and results of the program?	Yes No NA	
7	Is there a statement that all safety-related reports shall be fully evaluated and, to the extent appropriate, investigated by the ERC?	Yes No NA	
8	Is there a description of the manner in which records and documents relating to an ASAP shall be kept that ensures compliance with 14 CFR, the Pilot Records Improvement Act (PRIA), and any other applicable laws?	Yes No NA	
9	Is there a description of the process for timely reporting to the ERC of all events disclosed under the program?	Yes No NA	
10	Is there a description of the procedures that provide for:		
a	The resolution of safety-related events?	Yes No NA	
b	Continuous tracking of those events?	Yes No NA	
c	The analysis of safety-related events?	Yes No NA	
11	Is there a statement of ASAP report acceptance and exclusion criteria?	Yes No NA	
12	Is there a description of the frequency of periodic reviews by the parties to determine whether the program is achieving the desired results? (These reviews are in addition to any other review conducted by the FAA or any other party individually).	Yes No NA	

FIGURE 6-1. (Continued)**ASAP MOU Checklist**

NO.	ITEM	RESPONSE (CIRCLE YES, NO, OR NA)	MOU PARAGRAPH REFERENCE
13	Is there a statement that the ERC shall be comprised of one representative from each party to the MOU, and a description of the duties of the ASAP manager? (The ASAP manager may either be the same individual assigned as the company management representative to the ERC, or it may be another individual from company management who will not serve as a voting member of the ERC.)	Yes No NA	
14	Is there a description of the process for training and distributing information about the program to certificate holder management and employees and procedures for providing feedback to individuals who make safety-related reports under the program?	Yes No NA	
15	Is there a statement that modifications to the MOU must be accepted by all parties?	Yes No NA	
16	Is there a statement that termination or modification of a program will not adversely affect anyone who acted in reliance on the terms of a program in effect at the time of that action (e.g., when a program is terminated, all reports and investigations that were in progress will be handled under the provisions of the program until they are completed)?	Yes No NA	
17	Is there a statement that the program can be terminated at any time, by any party?	Yes No NA	
18	Is there a statement that failure of any party to follow the terms of the agreement ordinarily will result in termination of the program?	Yes No NA	

FIGURE 6-1. (Continued)**ASAP MOU Checklist**

NO.	ITEM	RESPONSE (CIRCLE YES, NO, OR NA)	MOU PARAGRAPH REFERENCE
19	Is there a statement that failure of a certificate holder to follow through with corrective action acceptable to FAA, to resolve any safety deficiencies, will ordinarily result in termination of the program?	Yes No NA	
20	Is there a detailed description of the following concepts if they are included in the program and, if appropriate, how they will be used:		
a	Event Review Committee?	Yes No NA	
b	Consensus of the ERC?	Yes No NA	
c	Sole-source reporting?	Yes No NA	
d	Sufficient evidence?	Yes No NA	
e	Enforcement-related incentive?	Yes No NA	
21	Is there a statement that repeated instances involving the same or similar possible non-compliance with 14 CFR that were previously addressed with Administrative Action under the ASAP will be accepted into the program, provided that they otherwise meet the acceptance criteria of ASAP? (The ERC will consider on a case-by-case basis the corrective action that is appropriate for such reports.)	Yes No NA	
22	Does the ASAP include an MOU procedure to identify the date, time, location or fix, altitude, flight number, and ATC frequency at the time the event occurred? (This applies to ASAP MOUs that contain provisions for ATC events.)	Yes No NA	

FIGURE 6-1. (Continued)**ASAP MOU Checklist**

NO.	ITEM	RESPONSE (CIRCLE YES, NO, OR NA)	MOU PARAGRAPH REFERENCE
23	Is there a statement that employees initially covered under an ASAP will be excluded from the program and not entitled to the enforcement-related incentive if they fail to complete the recommended corrective action in a manner satisfactory to all members of the ERC? (These cases may result in the reopening of the case and referral of the matter for appropriate action.)	Yes No NA	
24	Is there a statement that any safety-related ASAP event that concerns an apparent violation(s) that is EXCLUDED from ASAP will be referred by the FAA ERC representative to an appropriate office within the FAA for any additional investigation and reexamination and/or enforcement action, as appropriate?	Yes No NA	
25	Is there a statement that a closed ASAP case, including a related EIR, that involves a violation addressed with Administrative Action or for which no action has been taken, may be reopened if evidence is later discovered that establishes the event should have been excluded from the program?	Yes No NA	
26	Is there a statement that when the ERC becomes aware of an issue involving the medical qualification or medical certification of an airman, the ERC must immediately advise the appropriate Regional Flight Surgeon about the issue? (The ERC will work with the Regional Flight Surgeon and the certificate holder's medical department or medical consultants to resolve any medical certification or qualification issues or concerns revealed in an ASAP report, or through the processing.	Yes No NA	

FIGURE 6-1. (Continued)**ASAP MOU Checklist**

NO.	ITEM	RESPONSE (CIRCLE YES, NO, OR NA)	MOU PARAGRAPH REFERENCE
	of that report. The FAA ERC member must follow the direction(s) of the Regional Flight Surgeon with respect to any medical certification or medical qualification issue(s) revealed in an ASAP report.)		
27	Is there a statement that reports that appear to involve possible criminal activity, substance abuse, controlled substances, alcohol, or intentional falsification will be referred to an appropriate FAA office for further handling? The FAA may use such reports for any enforcement purposes and will refer such reports to law enforcement agencies, as appropriate.	Yes No NA	
28	Is there a statement that the ASAP manager will maintain an electronic database that tracks each event through and including closure of that event by the ERC and enables trend analysis?	Yes No NA	

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FIGURE 6-2. ASAP ENHANCEMENT E-MAIL REPORT EXAMPLE

CHDO: ABC FSDO/CMO

REGION: EA

FISCAL YEAR: 2003

QUARTER: 1st

ASAP MOU HOLDER: ABC Airlines

ASAP MOU EMPLOYEE CATEGORIES: Pilot, Maintenance Technician

ASAP MOU HOLDER DESIGNATOR: ABCA

ASAP ERC MEMBERS AND CONTACT INFORMATION (Name, Telephone Number, E-mail Address):

FAA Member: John Smith, (123) 456-7890, john.smith@faa.gov

Company Member: Fred Smith, (234) 567-8901, fsmith@abcair.com

Labor Member: Joe Dunn, (234) 123-4567, jdunn@labor.org

DESCRIPTION OF SAFETY ENHANCEMENTS:

Pilot's ASAP:

1. Identified and corrected B-737 navigation database errors effecting V-speeds and flap speeds.
2. Identified crew coordination deficiency when accepting newly assigned altitude clearances. Corrected through development of enhanced crew coordination procedures that specifically address this matter.

Maintenance Technician's ASAP:

Identified a problem with maintenance and flightcrews failing to identify improperly secured inspection and access panels prior to operation of aircraft. Several inspection and access panels are not visible during aircraft maintenance pre-taxi and flightcrew preflight inspections. Revised maintenance work cards and procedures to include new procedures that will ensure non-ground visible panel security prior to an aircraft's return to service.

JOHN DOE,
CHDO MANAGER

COPY TO:

ASAP Program Office, AFS-230